Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana	))))))))	CC Docket No. 01-277

REPLY COMMENTS OF BIRCH TELECOM OF THE SOUTH, INC.

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Birch Telecom of the South, Inc. ("Birch") files these reply comments in opposition to BellSouth's Section 271 application for Georgia and Louisiana ("Application") pursuant to the Public Notice (DA 01-2286) issued October 2, 2001.

I. INTRODUCTION AND SUMMARY

Birch, in its comments, demonstrated that BellSouth's Application should be denied on two grounds. First, the performance reported by BellSouth was inaccurate and inflated for a number of key measurements, especially flow through. Second, some of BellSouth's important target benchmarks were set considerably lower than the performance benchmarks approved by the Commission in other Section 271 orders, and are insufficient to ensure CLECs future nondiscriminatory access to unbundled network elements.

These reply comments clarify that BellSouth's low flow through rate is a serious impediment to Birch's ability to compete, since it magnifies the effect of BellSouth's inability to accurately process partially mechanized service orders. BellSouth's inability to accurately process these orders forces Birch to devote substantial resources to correcting BellSouth's errors. Frequently, when Birch fails to catch a BellSouth error, BellSouth provisions the order incorrectly. Thus, if it were not for Birch's efforts to mop up BellSouth's mistakes, BellSouth would be provisioning orders incorrectly significantly more than its performance results suggest.

The impact of BellSouth's low flow through rate and service order errors goes further than simply requiring Birch to needlessly devote resources to correct BellSouth's mistakes. As a result of BellSouth's poor performance for flow through and service order accuracy, Birch markets only the simplest business and residential products and services in Georgia. Birch does not have confidence that BellSouth's systems will allow it to successfully market more complex products and services. By contrast, in Texas and other SBC states where flow through and service order accuracy are not as significant a problem, Birch markets an assortment of complex products and services, including integrated voice/data access over a T-1 line and Birch's own DSL product. The importance of this effect cannot be overlooked. BellSouth's poor performance has reduced competition by discouraging entry into certain segments of the market and by weakening CLECs by reducing their market opportunities and ultimately their profitability. The ultimate losers are Georgia consumers who are denied the benefits of competitive advanced services.

The flaws in BellSouth's application, however, extend beyond BellSouth's poor performance. The Georgia performance measurement standards themselves are flawed. There are no performance measurements in Georgia that encourage service order accuracy, and the benchmark for flow through is lower than in other states where Section 271 applications have been approved. The absence of effective performance measurement standards means that BellSouth's poor performance is likely to persist well into the future.

In addition to the flaws discussed above, there are a number of other problems which warrant denying the Application. BellSouth appears to systemically fail to issue jeopardy notices; the Georgia performance measurements for FOC timeliness are not sufficiently demanding; and BellSouth's performance regarding the average completion interval is overstated due to the fact that the performance measurement is improperly defined. Finally, Birch has demonstrated that BellSouth's reported results for a number of key performance measurements are simply wrong and cannot be trusted. For all of these reasons, BellSouth fails to satisfy Checklist Item Number 2, which requires "nondiscriminatory access to network elements." 47 U.S.C. § 271(c)(2)(B)(ii).

II. BELLSOUTH'S FLOW THROUGH RATE IS UNACCEPTABLY LOW

Birch demonstrated in its comments that BellSouth's flow through rate for Birch did not improve by more than 40% in the month of July as BellSouth claimed. Sauder Decl., ¶¶ 8-22. BellSouth reported that UNE-P flow through for Birch for the months of May, June and July was 54.04%, 62.75% and 94.20%, respectively. In fact, BellSouth's flow actual through rate for Birch in July was approximately 57%. *Id.*, ¶ 21.

Birch knew that BellSouth's reported flow through rate for Birch for July was inflated in significant part because BellSouth reported ** ** flow through LSRs in the flow through report, but only ** ** FOCs under the electronically handled FOC timeliness measurement. *Id.*, ¶ 11. BellSouth's explanation for the discrepancy—that there was a system change in July under which supplement orders to cancel initial orders were considered flow through orders—is simply not credible.[1] It assumes that Birch cancelled ** ** or 38.47% of its BellSouth region-wide orders in July. Sauder Decl., ¶ 13. In fact, Birch typically cancels less than 2% of its monthly orders.[2]

[1] *See also* Evaluation of the Department of Justice, CC Docket No. 01-277, at 37-38 n.128 (November 6, 2001) ("DOJ Evaluation").

[2] Birch canceled ** * orders region-wide for September and ** ** orders region-wide for October.

Birch was also aware that BellSouth's flow through rate was exaggerated because Birch sometimes received a second FOC transaction from BellSouth containing a new due date. *Id.*, ¶¶ 19-21. This suggests that BellSouth's mechanized system is flawed in that it sometimes provides incorrect due dates. In those instances, manual handling is required to correct the incorrect due dates and provide Birch with a corrected due date. *Id.* Despite the apparent need for manual handling to correct FOC due dates, BellSouth often counts the LSRs as flowing through. In July, ** ** LSRs (out of ** ** LSRs that were reported as flowing through) received multiple FOCs. In August, ** ** LSRs out of ** ** received multiple FOCs. *See* Attachment 1. And most recently, in September, ** ** LSRs out of ** **, received multiple FOCs.[3] *See* Attachment 2. These multiple FOCs show that BellSouth's OSS has due date calculation problems.

BellSouth recently restated its Birch-specific flow through results and found that the Georgia specific flow through rate for the month of July was approximately 69%.[4] This is much closer to Birch's estimate of 57% (based on the numbers reported by BellSouth to Birch) but is still overstated. Birch has no way of evaluating the accuracy of the restated results since BellSouth has not informed Birch of the methodology it used to calculate the new flow through rate. A possible explanation for why BellSouth is still overstating its flow through results is that it still counts LSRs with multiple FOCs as flowing through.

BellSouth's reported flow through rates for Birch for August and September also confirm that BellSouth's flow through performance is inadequate. BellSouth reported that the Birch-specific flow through rate for August was approximately 61%; in September it was just

[3] The number of orders reported as flowing through comes from BellSouth's restatement of July flow through on October 25, 2001. BellSouth *ex parte,* CC Docket No. 01-277 (October 25, 2001) ("*October 25, 2001 Flow-Through Ex Parte*").

[4] BellSouth *ex parte*, CC Docket No. 01-277 (November 6, 2001).

under 60%.[5] Thus, Bellsouth's Birch specific flow through rates have not improved in recent months.[6]

BellSouth's reported UNE flow through rate in Georgia for all CLECs for September was 79.33%.[7] Thus, at best, approximately 20% of UNE orders are partially mechanized.[8] Note, however, that BellSouth could very well have miscalculated its September flow through performance since it may have included orders with multiple FOCs or made other errors.

When considering whether BellSouth's flow through rate is sufficient, the Commission should compare BellSouth's performance to SBC's performance in Texas, not SBC's performance in Kansas and Oklahoma. According to *BellSouth's November 2, 2001 OSS/Manual Handling Ex Parte*, BellSouth's flow through rates for all orders designed to flow through (not just UNEs) range from 69% to 90%.[9] BellSouth shows that its flow through results are similar to those in Kansas and Oklahoma but well short of flow through rates in Texas.[10] The comparison to Kansas and Oklahoma is inapposite. The Commission approved the Kansas and Oklahoma applications despite the low flow through rates in significant part because SBC proved that its OSS was regional and through its performance in Texas that its systems were

[5] Birch's review of the BellSouth reported data shows Birch Georgia-specific flow through rates in August at 60.75% and in September at 60.34%.

[6] Representatives from BellSouth and Birch signed the "Birch Telecommunications Action Plan" in July. Attachment 3. An important goal of the plan was to achieve by September a flow through rate for Birch of 80%. *Id.* at 5. Unfortunately BellSouth's reported flow through rate for Birch in September was 60.34% with no sign of improving.

[7] BellSouth *ex parte*, CC Docket No. 01-277 (Nov. 1, 2001) ("*November 1, 2001 Monthly Performance Summary Ex Parte*").

[8] This only includes orders that are designed to flow through and excludes orders with CLEC errors. The percentage of partially mechanized orders would be higher if orders that are not designed to flow through are also included in the calculation.

[9] BellSouth *ex parte*, CC Docket No. 01-277 (Nov. 2, 2001) ("*November 2, 2001 OSS/Manual Handling Ex Parte*").

[10] SBC's flow through rates in Texas range between 97% and 99%. *Id.*

capable of high flow through rates. *Joint Application by SBC Communications, Inc. Southwestern Bell Telephone Company, Southwestern Bell Communications Service, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma,* Memorandum Opinion and Order, CC Docket No. 00-217, FCC 01-29 (Jan. 22, 2001) ("*Kansas/Oklahoma Order*"). Unlike Southwestern Bell ("SWBT"), however, BellSouth has no precedent on which to hang its hat. BellSouth has never demonstrated that its systems are capable of high flow through rates.

Similarly, a comparison of BellSouth's flow through rates to those of Verizon in Pennsylvania and Massachusetts is inappropriate. BellSouth observes that its reported flow through rate for UNE-P is between 64% and 80%. *November 2, 2001 OSS/Manual Handling Ex Parte.* Verizon's flow through rate for UNE-P in Pennsylvania and Massachusetts is between 66% and 71%. *Id.* Once again, the suggestion is that BellSouth's flow through rates are similar to an RBOCs that has been granted Section 271 approval.

The Commission, however, explained that "Bell Atlantic's systems are capable of providing high levels of order flow through, but are dependent, in part, on the performance of competing carriers." *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region*, *InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 166 (1999) ("*New York Order"*). Such dependence stems from the fact that when CLECs commit errors in their orders, Bell Atlantic manually corrects the errors rather than rejecting them.[11] These manual corrections are counted

[11] Verizon manually corrects CLEC errors thus reducing the flow through rate in New York, Pennsylvania and Massachusetts. *New York Order*, ¶ 166; *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide in-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, CC Docket No. 01-138, FCC 01-269, ¶ 49 (September 19, 2001) ("*Penn. Order*"); *Application of Verizon New England Inc., Bell Atlantic communications, Inc. NYNEX Long Distance Company And Verizon Global Networks Inc., for*
(footnote continued on next page)

as partially mechanized orders, thus lowering the flow through rate. *Id.* BellSouth, however, simply rejects CLEC orders with errors without attempting any corrections. Thus, one would expect that, everything else being equal, BellSouth's flow through rates would be higher than Verizon's flow through rates. Accordingly, BellSouth should be required to have a higher flow through rate than Verizon.

III. BELLSOUTH'S INTERNAL SERVICE ORDER ERRORS DENY BIRCH A MEANINGFUL OPPORTUNITY TO COMPETE

The Commission has said that flow through rates are not an end in themselves, but rather a tool used to indicate a wide range of possible deficiencies in an RBOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in a local market." *Penn. Order*, ¶ 48. In this case, however, BellSouth's low level of flow through magnifies a problem with BellSouth's OSS of fundamental importance to Birch and other CLECs. BellSouth's manual processes are woefully inadequate; BellSouth routinely makes mistakes with internal service orders when orders are handled manually. This is in stark contrast to the performance achieved by other RBOCs with respect to service order accuracy.[12]

A. BellSouth's Reported Results for Internal Service Order Accuracy Fail to Meet the Applicable Benchmark

The performance measurement standard establishes a benchmark of 95% accuracy. In the five months from May through September, BellSouth has not once met the benchmark and was close only in the month of May.[13] In August, BellSouth's accuracy for "Loops non-design <

Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, 16 FCC Rcd 8988, ¶ 78 (2001) ("*Mass. Order*").

[12] *See e.g., Mass. Order*, ¶ 81 ("Verizon is timely and accurately processing orders that do not flow through.").

[13] Varner Exhibits PM-2,3,4 (for May-July results); BellSouth *ex Parte,* CC Docket No. 01-277 (Oct. 3, 2001) (August results) ("*October 3, 2001 Monthly Performance Summary Ex Parte*"); BellSouth e*x Parte,* CC Docket No. 01-277 (Nov. 1, 2001) (September results) ("*November 1, 2001 Monthly Performance Summary Ex Parte").*

10 circuits" was 64.36%[14] In September BellSouth's accuracy was 79.33%.[15] The Department of Justice ("DOJ") and KPMG have both acknowledged BellSouth's failure to meet the internal service order benchmark for UNEs for June and July in both Georgia and Louisiana.[16] Moreover, as discussed below in Section III. B., the performance measurement for service order accuracy fails to capture a number of serious flaws in a number of important respects.

AT&T agrees that BellSouth's service order accuracy is atrocious. AT&T observed that "BellSouth only seeks to maintain a 70% rate of service order accuracy – thus creating the possibility of errors in re-entering as many as 30% of partially mechanized and manually submitted orders. Its own reported performance data show that errors by its service representatives are frequent." Comments of AT&T to Joint Application by BellSouth Corporation, et al. for Provision of In Region, InterLATA Services in Georgia and Louisiana CC Docket No. 01-277 (October 22, 2001) at 23.

The Commission approved Bell Atlantic's application in New York despite the fact that, according to the service order accuracy performance measurement, Bell Atlantic was achieving very low service order accuracy. Bell Atlantic argued that the metric was flawed because "it attributes to Bell Atlantic as errors all differences between the original competing carrier order and the order information entered into its service order processor." *New York Order*, ¶ 173. Thus it "counts as Bell Atlantic errors those cases where Bell Atlantic has fixed an error in a competing carrier order." *Id.* The Commission agreed. *Id.*, ¶ 174. However, the same flaw cannot be relied upon by BellSouth since BellSouth's systems and procedures call for the

[14] *October 3, 2001 Monthly Performance Summary Ex Parte.* Birch believes, and as described by BellSouth participants in the recent Georgia six-month review workshop, that UNE-P orders are included in the "Loop non-design" disaggregation.

[15] *November 2, 2001 Monthly Performance Summary Ex Parte.*

[16] DOJ Evaluation at 17 n.51.

rejection of all CLEC orders that contain errors; BellSouth does not fix orders that contain errors.

Bell Atlantic reported that if it adjusted the service order accuracy measurement to account for the fact that Bell Atlantic corrects CLEC errors, it would receive a score of 87% for service order accuracy. *New York Order*, ¶ 184 n.548. Similarly, in Massachusetts Verizon reported service order accuracy ranging from 82% to 99%,[17] and in Pennsylvania Verizon reported service order accuracy of 85% to 99%.[18] All of these reported results are much higher than those recently reported by BellSouth.

B. Birch's Experience With BellSouth's Internal Service Order Accuracy is Consistent With BellSouth's Reported Results

Birch employs five ILEC Process Monitors ("IPMs")[19] for the exclusive purpose of "hand-holding" Birch's orders through the provisioning process and correcting as many service order errors introduced by BellSouth that they are able to detect.[20] The spreadsheet in Attachment 4, represents a two week snapshot[21] of one IPM's log of activity related to BellSouth service order errors.[22] As the log illustrates, the Birch IPM has performed the tedious task of

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[17] *Mass. Order*, ¶ 81 and n.251.

[18] *Penn. Order*, ¶ 49 n.190.

[19] Birch's IPMs are paid at a higher rate than a standard provisioner and are more experienced employees tasked to perform high level problem-solving exercises for those BellSouth orders that contain errors.

[20] Presumably, service order errors only occur on partially mechanized orders. However, as CLECs have no indication of whether an order is fully or partially mechanized, as a matter of standard practice, Birch IPMs review every single order in CSOTS, including mechanized orders, to ensure that the information Birch provided on the LSR and the order appearing in CSOTS are identical. The accompanying flow charts depict the time interval it takes Birch IPMs to perform this function, ten minutes per order on average.

[21] The two-week snapshot was derived from the time period between October 15 and 26, 2001. This is merely illustrative of any given time period for any given IPM at Birch.

[22] This particular Birch IPM is assigned to Georgia orders, and all of the orders contained on the log are Georgia-specific.

tracking specific customers, customer telephone numbers, order dates, PON numbers and the specific errors that occurred during the transition from the Birch-produced LSR to the BellSouth re-typed internal service order. Note that several orders contain multiple errors.

Birch conducted an analysis of this one IPM's log to derive the percentage of BellSouth service orders for Georgia that contained errors that were *actually* caught by Birch. During the October 15 through 26, 2001 time period, this Birch IPM found errors on and made corrections to ** **[23] BellSouth service orders.[24] During that same two-week period, Birch provisioned ** ** orders in Georgia of which 40% or ** ** were manually handled by BellSouth.[25] Therefore, Birch found errors on 28.17%[26] of the manual service orders handled by BellSouth in Georgia.[27] The effect of this high rate of internal service errors is exacerbated by the fact that 40% of Birch's orders are partially mechanized.

[23] Birch IPMs utilize two mechanisms to report service order corrections to BellSouth. The first is the "HiTops" e-mailbox. The second is a phone call to the LCSC. Although not specifically documented on the IPM log, Birch IPMs make an average of 4 additional calls per day to the LCSC to correct service order errors that are deemed more complicated and require urgent response time usually attributable to a nearing due date. Thus, the ** ** service order figure includes the average of 4 calls per day to the LCSC.

[24] Although many of the orders contained multiple errors, Birch did not include that impact in this analysis.

[25] This portion of the analysis assumes that 100% of the mechanized orders were error-free on the BellSouth side, which is not always the case.

[26] 28.17% represents ** ** orders found to contain errors out of ** ** orders manually handled by BellSouth for the October 15 through 26, 2001, time period. There are four other IPMs that examine BellSouth manual Service Orders created for Birch orders pertaining to other BellSouth states. Based on an evaluation of the detail periodically prepared by the other IPMs, Birch has every reason to believe that the error rate of 28.17% is accurate in a broad sense as well as for this specific illustration. Therefore for the month of October, all Birch IPMs corrected in excess of ** ** BellSouth manual service orders (** ** BellSouth Service Order Errors per IPM X 5 IPMs X 2 to expand the two week period into a month).

[27] Note that the 28.17% figure underestimates the percentage of internal service order errors since the figure only includes errors that Birch catches.

Birch has no choice but to devote substantial resources to catch and fix these errors if it is to successfully avoid customer frustration due to incorrect provisioning of their orders. Had Birch not implemented its IPM strategy, it would be out of business in the BellSouth region today due to BellSouth's provisioning errors that would cause a poor conversion experience for a significant percentage of Birch's customer base.

It is interesting to note that BellSouth dismisses its service order accuracy problems as insignificant and suggests that these errors are not customer-affecting.[28] Contrary to what BellSouth might believe, the lack of provisioning complaints before a regulatory body does not tell even part of the story. All of the activity performed by Birch's IPMs takes place *before* a customer's service is provisioned. Rather than accepting BellSouth's conclusion that these errors are not customer-affecting based on irrelevant performance measurement data, the Commission should instead consider that Birch is forced to employ substantial resources to insulate its customers from BellSouth-caused provisioning errors to the best of its ability.

C. BellSouth's Excessive Reliance on Manual Intervention and Poor Track Record of Service Order Accuracy Materially Increases Birch's Costs and Ultimately Denies Birch a Meaningful Opportunity to Compete

BellSouth's internal service order errors and poor flow through performance have forced Birch to implement various strategies to guard against massive provisioning problems and customer distrust.[29]

1. Birch Employs Additional Provisioning Headcount Exclusively to Manage BellSouth Service Order Errors

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[28] BellSouth Brief in Support of Application, BellSouth Corporation, et al, CC Docket No. 01-277 (October 2, 2001) ("BellSouth Brief) at 81.

[29] Despite the Birch efforts described herein, service order accuracy errors still affect Birch end users. Attachments 5 and 6 outline ** ** August and ** ** September errors that affected Georgia end users. The data depicts instances where BellSouth needed to issue correction service orders to fix BellSouth caused service order errors.

In an effort to manage the BellSouth service order accuracy problems, Birch has been forced to increase the cost of its provisioning organization dedicated to BellSouth by 48.93%.[30] As discussed above, Birch employs five IPMs for the exclusive purpose of correcting Birch's service order errors. This is a glaring example of how BellSouth's inefficiencies are thrust upon Birch unnecessarily. It is an expense that should be shouldered by BellSouth, not Birch.

[30] Birch employs 13 provisioners in its BellSouth provisioning center that only prepare and submit to BellSouth local service requests for all conversion, move, add and change activities. The annual cost of these provisioners is ** **. The annual cost of 5 IPMs is ** **. The IPMs' sole responsibility is to detect and rectify service order errors introduced by BellSouth. Therefore, the cost of Birch's provisioning organization is 48.93% (** **) greater than it would be otherwise if this BellSouth error problem did not exist.

2. Birch's IPMs Constantly Prevent Provisioning Errors

Attachment 7 depicts a particular Birch customer's provisioning experience prior to conversion. The customer, ** ** is a South Carolina based company with 67 locations and ** ** lines[31] that wanted to convert to Birch. The spreadsheet in Attachment Seven represents the same information provided on the IPM log in Attachment 4, including the internal service order errors introduced by BellSouth in transition from the Birch LSR. BellSouth made errors on its internal service orders for 32 out of the 67 orders generated to provision this account, resulting in a 47% error rate.[32] Correcting the 32 internal service order errors required 31 phone calls to the LCSC and approximately 10 hours of the IPM's time.[33] Note that Birch submitted the 32 orders correctly originally. Birch would be more forgiving of BellSouth's errors if the orders for this customer had been for complex services. However, each of these orders were simple, UNE-P based POTS services. Had Birch not taken extraordinary and pre-emptive measures to prevent provisioning errors for this important Birch customer, not only would the customer's conversion experience have been a nightmare, the customer would have logically (although incorrectly) blamed Birch for the poor experience.

Attachment 8 further details the efforts undertaken by the Birch IPM to correct just one service order (out of 32) containing errors in the ** ** conversion process. This example is indicative of what happens to orders submitted for Birch's customers every day. The snap shot depicted in Attachment 4 contains 31 more customers identical to ** ** that were saved from an error-filled conversion experience by a

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[31] At least one of ** ** locations is in Savannah, Georgia, as referenced in Attachment 8.

[32] Attachment 8 illustrates the exercise performed by the Birch IPM to correct just one of the 32 orders that contained BellSouth-caused errors.

[33] For this example, the IPM actually had to re-correct additional errors made on the internal service orders, after the initial errors had been addressed. Unfortunately, this is not uncommon in the correction process.

Birch IPM. Attachment 8 amplifies the process by which a Birch IPM corrects every single service order error for every single customer listed on the IPM log in Attachment 4. This log could be produced for the other four IPMs utilized by Birch and the result would be the same: evidence of customer after customer that is shielded from an unsuccessful conversion experience because a Birch IPM corrected the BellSouth-imposed service order errors prior to the customer's service being provisioned.

Although Birch has attached a dollar value to the IPMs, it is painfully clear that the value they add by routinely preventing disastrous conversion experiences for Birch customers cannot be measured in dollars and cents, but rather is an intangible that Birch cannot truly nor fully quantify.

The negative impact of BellSouth's service order errors on CLECs' customers is not the benchmark to use to assess whether BellSouth's service order accuracy errors impede competition, as BellSouth suggests. Rather, the proper assessment is how these inefficiencies impede a CLEC's provisioning process to the point of being unable to provision service at parity with BellSouth retail. BellSouth retail does not have to contend with its vendor/competitor re-typing its customer's orders and introducing errors on a material amount of those orders. Without Birch's IPMs, *nearly 30%* of all orders manually handled by BellSouth would be provisioned incorrectly due to BellSouth-caused errors.[34] Birch simply cannot afford to rely on BellSouth's inefficient, excessive manual handling to get the job done. Birch should not have to bear the brunt of BellSouth's provisioning inefficiencies in the way described herein. BellSouth

[34] Even with the efforts undertaken by the Birch IPMs, there are still orders that do get provisioned with BellSouth-caused errors. *See* Attachments 5 and 6.

should be held accountable for and remedy its inherent service order quality problems that in turn force needless inefficiencies on Birch, before BellSouth is ever granted 271 approval.[35]

3. Birch Must Routinely Request Extended Due Dates to Account for Extra Provisioning Time Required to Correct BellSouth Service Order Errors

Birch requested extended due dates on nearly 100% of its conversion orders to provide extra time for Birch provisioners to correct BellSouth's service order errors. Attachment 9 hereto is a flow chart depicting the life of a Birch order if handled by BellSouth on a mechanized basis compared to the life of a Birch order if handled by BellSouth on a partially mechanized basis. This flow chart amplifies the additional time it takes Birch to provision orders that have internal service order errors. As the flow chart in Attachment 9 illustrates, the average interval from the submission of an LSR by Birch to FOC receipt, on a mechanized basis, is 16 minutes per order. In contrast, the average interval from LSR submission just to service order correction, for an order that is manually handled by BellSouth, is *3 hours and 56 minutes per order*.[36]

4. Inherent Deficiencies in CSOTS Further Lengthens the Provisioning Time for Birch Customers

Birch also requests extended due dates because of the deficiencies in the CLEC Service Order Tracking System ("CSOTS"). Birch's IPMs utilize CSOTS to verify the accuracy of BellSouth's service orders. Several inherent problems prevent Birch IPMs to verify the

[35] At a bare minimum, the cost associated with the quality control of BellSouth's service orders should be borne by BellSouth and not Birch. BellSouth should be required to prove significant improvements in its service order error rates prior to gaining 271 approval.

[36] Attachment 9. This calculation is on a business hour basis. However, this level of performance is not guaranteed under the SQM framework, as BellSouth is currently only required to return 85% of partially mechanized orders within 10 business hours. Currently, there is nothing to prevent BellSouth from decreasing its performance to this lower level, immediately following 271 approval.

service order integrity on a real-time basis. First, CSOTS is only updated once every 24 hours. Thus, if Birch submits an LSR at 10:00 a.m., the BellSouth-generated service order cannot be viewed until after 6:00 p.m.—after hours that evening. As evidenced herein, the high percentage of BellSouth service order errors necessitates Birch's practice of reconciling each service order with the LSR. Since Birch cannot access the CSOTS information real-time, the service order reconciliation cannot occur until the next business day after the LSR is submitted. As a result, it is nearly impossible for Birch to offer same-day or next-day due dates to its customers for even the basic set of UNE-P orders that it provisions. Because Birch cannot be sure as to which of its orders will fall out for manual handling, and because Birch is not able to perform same-day corrections, Birch must request extended due dates for all of its customers to ensure that service order errors are caught prior to being provisioned.

In addition, internal service orders in CSOTS are often represented inaccurately. Often, a Birch IPM has a printed service order from CSOTS and discovers errors during the reconciliation process. The Birch IPM will then call the LCSC only to have the LCSC representative report that no error is present from its view of the service order. In this instance, it is a complete waste of the Birch IPM's time to report errors to the LCSC. There is evidently a system problem in CSOTS that again requires Birch to extend due dates and therefore needlessly extend the time in which service to Birch customers is provisioned.

Finally, service orders in CSOTS do not always reflect corrections made to the initial service orders. If an error is discovered during the reconciliation process, the Birch IPM reports it to the LCSC. The LCSC representative will then make the corrections to the service order. As a quality control measure, Birch will again reconcile the internal service order to the original LSR. If the IPM observes in CSOTS that the corrections have not been made, the IPM will call the LCSC to confirm that the corrections will indeed be made prior to order completion. The response frequently given by the LCSC is that the corrections were made on the previous day when the errors were reported. If CSOTS fails to update the service order, Birch cannot confirm that these corrections were made. Despite these difficulties with CSOTS, Birch is in no position to abandon the reconciliation process described herein because it must contend with a BellSouth service order error rate of nearly 30%. The CSOTS deficiencies further impede Birch in that the IPMs are prevented from performing their quality control role as effectively as they could. Since Birch is ultimately responsible to its end users for an accurate conversion experience, the only way to effectively insulate its customers is to extend due dates and attempt to uncover service order errors and manage through CSOTS's unreliability. As a result, Birch's customers cannot be provisioned as timely as BellSouth's retail customers because Birch must allow for additional time – generally two business days – to correct BellSouth's mistakes and deal with BellSouth's system deficiencies.

5. BellSouth's Performance with Respect to Service Order Accuracy is Far Worse Than SWBT

Birch offers service in both the SWBT region and the BellSouth region. Attachment 10 compares the manual intervention process Birch encounters for orders processed by the two RBOCs. The primary difference is that SWBT's error rate on internal service orders is only 5%.[37] Moreover, Birch's order volumes in the SWBT region far exceed those in BellSouth region. If Birch experienced on its volumes in the SWBT region a sustained level of the 40% manually handled order rate and a nearly 30% service order error rate, it would likely not be in business today. Prior to gaining Section 271 approval in Texas, Kansas and Oklahoma, SWBT's benchmark for flow through was set at parity with the flow through provided to SWBT's retail

[37] It is important to note that Birch offers and orders a much more complex set of products to its customers in the Southwestern Bell region and that Birch attributes a large part of the 5% fall out rate there to the provisioning of such complex orders.

organization. The parity measurement disincents SWBT from handling CLEC orders manually by requiring SWBT to provide flow through rates to CLECs at or near parity with SWBT retail, or pay stiff remedy payments for failure to provide the same. Unlike SWBT's performance, BellSouth's performance does not provide the same meaningful opportunity to compete that this Commission determined previously for SWBT in each of the states in which it granted 271 authority to SWBT.

Significantly, Birch does not have an IPM analogue in its SWBT-dedicated provisioning group. SWBT's service order accuracy and flow through rates are sufficiently high that Birch does not have to deploy additional resources for the exclusive purpose of overseeing its provisioning of manually handled orders.

6. Birch's Costs Per Order are Substantially Higher as a Result of the Errors and Inefficiencies in BellSouth's Ordering Process

Attachment 9 shows that on average Birch IPMs spend an additional 40 minutes per order dealing with service order errors. Birch spends ten minutes reconciling the Birch submitted LSR to the BellSouth service order; twenty minutes correcting the service order error; and ten minutes confirming that the service order corrections have been accurately made by BellSouth. This additional time spent reconciling, correcting, and validating the corrections is obviously only *after* the IPM is able to discover the errors. Because of the shortcomings of BellSouth's CSOTS, service order errors are not typically discovered the same day the FOC is issued. It is typically the next day. This additional time and dedication of the Birch IPMs to error correction effectively doubles the direct provisioning cost of partially mechanized orders.

Birch's average cost of base provisioning activities is ** ** per order.[38] Factoring in the additional cost of the Birch IPMs for error correction activities adds an additional ** ** per partially mechanized order[39], or nearly a 100% increase over the base provisioning cost.

7. Birch's Higher Per Orders Costs and its Lack of Confidence in BellSouth's Ordering Systems Have Prevented Birch From Expanding its Marketing Efforts

A prime example of Birch's inability to expand other aspects of its business is the basic product set offered by Birch in the BellSouth region. Recall from Birch's initial comments that over 95% of all Birch orders processed in the BellSouth region are simple, POTS based UNE-P orders.[40] Birch's lack of confidence in BellSouth's provisioning process has prevented Birch from rolling out complex product offerings to its customers or potential customers in the BellSouth region. Although Birch would like nothing more than to be able to offer a more complex, competitive set of products to its customers in the BellSouth region, Birch's fear of the provisioning impacts and problems is too great at this time.

When compared to Birch's experience in the SWBT region, the overall impact to Birch's ability to compete with a more complex set of products becomes clear. Birch began

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[38] The ** ** figure is arrived at as follows:

Annual Cost of Birch provisioners handling BellSouth	** **
Monthly Cost ** **	** **
Total September Order Volume – BellSouth Orders	** **
Base Provisioning Cost/Order (** **)	** **

[39] The ** ** figure is arrived at as follows:

Annual Cost of IPMs – 100% BellSouth	** **
Monthly Cost (** **)	** **
September Partially Mechanized Orders	** **
IPM Cost/Partially Mech. Order (** **)	** **

[40] Comments of Birch Telecom of the South, Inc. to Joint Application by BellSouth Corporation, et al. for provision of In-Region, Interlata services in Georgia and Louisiana, CC Docket No. 01-277 (October 22, 2001) at 16 ("Birch Comments").

processing simple, POTS-based UNE-P orders in the SWBT region in May 1999. Eight months later, in January 2000, Birch was able to begin offering and provisioning more complex products. Although the decision to roll out more complex products was driven by Birch's own business plan, Birch also had the confidence in its ability to engage in cooperative resolution of operational problems with SWBT and was able to find a way to make the provisioning process work for these products.[41] Birch's business plan in the BellSouth region was (and still is) to expand its product offerings once it reached a level of operational stability with its initial, simplified product set. To date, this has not occurred. Nearly eleven months after its launch in the BellSouth region, Birch's confidence in BellSouth's provisioning process has only diminished. This lack of confidence is directly attributable to BellSouth's unstable provisioning process, based on Birch's actual experience with horrendous flow through rates and staggering service order error rates.

Although BellSouth has indicated that it is taking steps to improve its service order accuracy performance,[42] such improvement has yet to be seen. Furthermore, this Commission has repeatedly made clear that a "BOC's promises of future performance to address particular concerns raised by commenters have no probative value in demonstrating its present compliance with the requirement of section 271. Paper promises do not and cannot satisfy an RBOC's burden of proof."[43]

It has been almost six years since the passage of the Telecommunications Act of 1996 and BellSouth continues to rely excessively on manual processes and forces CLECs like Birch also to rely on excessive manual processes that are costing Birch additional time and resources.

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[41] Recall that Birch supported SWBT's 271 applications in Kansas, Missouri and Oklahoma later in 2000.

[42] BellSouth Brief at 81-82; Varner Aff. ¶ 153.

[43] *Michigan Order*, ¶ 55.

The result is that a normally efficient provider like Birch a meaningful opportunity to compete. Despite the $1.6 billion dollar upgrades to BellSouth's OSS systems, Birch still experiences a mere 60% flow through rate. Despite BellSouth's claim that it is retraining its service representatives who enter BellSouth's internal service orders, Birch experienced the nearly 30% service order error rate as recently as October. Although at least one CLEC commented favorably on BellSouth improvements in UNE-P ordering and provisioning,[44] this CLEC does process the same volume of orders as Birch, not operate outside of the BellSouth region, and does not have any other point of reference from which to draw. Birch's experience in the SWBT region is that RBOCs can provide competitors a meaningful opportunity to compete. Birch asserts that RBOCs like BellSouth must be denied 271 authority unless and until it fully satisfies Checklist Item Number 2.

IV. BELLSOUTH'S OSS SYSTEM OUTAGES MATERIALLY IMPACT BIRCH'S ABILITY TO COMPETE

As evidenced in the Affidavit of Mel Wagner, Jr., and further discussed in Birch's initial comments, Birch has experienced multiple failures of BellSouth's Telecommunications Access Gateway ("TAG") system since Birch began operating in the region earlier this year. As reported previously, Birch experienced a prolonged TAG failure between August 2 and August 6, 2001, resulting in Birch's inability to provision 75% of its normal order volume despite working a steady level of overtime.[45] All TAG outages combined, Birch estimates that it lost over 300 hours of employee production time amounting to thousands of dollars in unproductive labor costs. Birch's customers also felt the effects of the August failure since it took BellSouth

[44] *See* Comments of NewSouth Communications Corp., Application of BellSouth Corporation Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Georgia and Louisiana, CC Docket No. 01-277 (Oct. 22, 2001) at 3-5.

[45] Birch Comments at 29.

an average of four days past the due date to provision the customer's service. These customers' first impressions of Birch were tainted by broken promises and missed due dates. Despite the fact that the provisioning problems were beyond Birch's control, Birch's customers viewed them as Birch's "fault" all the same. This is not parity.

In direct response to the TAG failures experienced by Birch, Birch has again increased its overhead by employing an Information Technology Analyst to micro-manage BellSouth's OSS systems and system release initiatives.[46] This is not the way an efficient competitor should have to run its operations, but Birch is forced to take this extra measure as a result of BellSouth's inherent system problems.

V. THE PERFORMANCE MEASUREMENT STANDARDS FOR UNE-P FLOW THROUGH AND SERVICE ORDER ACCURACY DO NOT ADEQUATELY ENCOURAGE ACCURATE INTERNAL SERVICE ORDERS

Despite the fact that accurate internal service order are critical to Birch's ability to compete there are no effective Georgia performance measurement standards that encourage such accuracy. BellSouth and other RBOCs pattern their behavior on the performance measurement standards. With no effective standards designed to prevent internal service order errors, it is almost a forgone conclusion that these errors will persist. The Commission should not approve BellSouth's application until performance measurement standards are put in place that encourage BellSouth to rectify this problem.

A. The Performance Measurement Standard for UNE-P Flow Through Fails to Encourage Service Order Accuracy

One method of encouraging service order accuracy would be to require high flow through rates. Mechanized orders are not subject to internal service order errors since the orders are not touched by human hands. Despite the clear benefit of a high flow through rate, the

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[46] The actual overhead associated with the Information Technology Analyst is ** **.

Georgia standard for flow through of UNE orders is 85%. This is significantly less than the standard in other states where section 271 applications have been approved. In New York, Massachusetts and Connecticut, the standard is 95% for all eligible LSRs. In Texas and Kansas/Oklahoma, the flow through standard is parity. The Georgia standard should be raised to either of these two standards.

Birch does not deny the possibility that partially mechanized orders can be processed accurately and quickly and thus not prejudice CLECs. SBC in Texas does an excellent job of processing partially mechanized orders and, as a result, Birch supported SBC's 271 applications. However, BellSouth's performance regarding the processing of manual orders has been sub par. With that backdrop a high flow through rate is critical.

B. Georgia's Performance Measurement for Internal Service Order Accuracy is Not Adequate

BellSouth's unacceptably poor performance for UNE service order accuracy is not surprising since BellSouth is not penalized if it does not meat the performance measurement standard for service order accuracy. While the standard requires the accuracy of 95 percent of all service orders, BellSouth is not penalized in the slightest if it fails to meet that standard.

Besides facing no consequences if the performance measurement standard is not met, there are two additional problems with this performance measurement. First, in calculating the percentage of service orders that are accurate, BellSouth only considers a small sample of orders. In some cases the samples appear to be so small that it is hard to imagine how the results could be statistically significant. For example, in June the sample included only 78 orders.[47] The small sample sizes may explain why BellSouth's performance is all over the map and exhibits no

[47] Varner Exhibit PM-2.

trend or consistency whatsoever. This should be changed. BellSouth should be required to include all partially mechanized orders when calculating UNE service order accuracy.[48]

Second, the performance measurement should be disaggregated to measure service order accuracy for partially mechanized LSRs. Presently, the Georgia performance measurement for UNE service order accuracy considers all LSRs and as a result it is difficult to judge BellSouth's performance regarding the service order accuracy of those LSRs that are partially mechanized. As discussed above, since BellSouth's flow through rate is so low, the accuracy of partially mechanized UNE service orders is critical.

The Georgia performance measurement standard for UNE service order accuracy should be modeled after the Texas performance measurement standard. In Texas, 95 percent of all partially mechanized LSRs must be handled accurately; if SWBT fails to meet the standard it is penalized. Also, unlike BellSouth, SWBT counts each and every partially mechanized LSR in calculating its performance, thus its reported results are more complete. Finally, the performance measurement in Texas is disaggregated in that it measures the accuracy of partially mechanized LSRs in particular. SWBT is meeting the 95% standard whereas BellSouth is not even close.

VI. THE COMMISSION CANNOT RELY UPON THE ACCURACY OF BELLSOUTH'S PERFORMANCE MEASUREMENT RESULTS

BellSouth's reported performance measurement results cannot be trusted. Birch's comments and these reply comments show that BellSouth's reported results have simply been wrong with respect to a number of important measurements. Birch is a relatively small CLEC that had the opportunity to review BellSouth's data for only a few key measurements. If Birch had the time and resources to review all of BellSouth's reported results, it might have uncovered

[48] This comparison can be done electronically. SWBT, for example, compares LSR and internal service orders mechanically.

many more errors. The mistakes that Birch did find bring into question the integrity of all of Birch's reported results.

At the very least, the Commission should not rely on performance measurement results that BellSouth recently restated. BellSouth has not disclosed to Birch of how its restated results were calculated despite the fact that Birch asked for this information. Given the number of errors that BellSouth has made in the past, the Commission should not take BellSouth's restated data at face value.

VII. OTHER DEFICIENCIES THAT AFFECT BIRCH'S ABILITY TO COMPETE

A. BellSouth Fails to Issue Jeopardy Notices

Jeopardy notices inform CLECs of missed due dates on FOCs as well as the reasons for those missed due dates. Birch recounted in its comments that BellSouth missed due dates for reasons attributable to BellSouth for 42 Birch orders from May through August. Sauder Decl., ¶¶ 30-31. Birch should have received jeopardy notices for each of these missed due dates but received only one such notice and the notice incorrectly reported that the problem was an inability to access the end user's premises. In September, BellSouth missed 20 due dates for Birch region wide for reasons attributable to BellSouth. Attachment 11. Birch did not receive a single jeopardy notice. Thus, BellSouth's failure to issue jeopardy notices persists.

This system failure renders meaningless BellSouth's reported results for performance measurements related to jeopardy notices. The jeopardy performance measurements only evaluate the timeliness of the notices and the percentage of orders that receive jeopardy notices. The failure to send jeopardy notices at all does not show up in the performance measurement results.

The absence of jeopardy notices has a real impact on Birch's ability to service customers. Birch is prevented from communicating missed due dates to its customers, thus losing their confidence and goodwill. Also, if Birch is not informed of a missed due date, it must invoke manual processes (either by looking in CSOTS, which is only updated daily, or calling the LCSC) to find out why the order was missed and to ensure that the order is eventually provisioned. Using manual processes to obtain the information that the jeopardy notice is designed to impart is an unnecessary cost that Birch should not have to bear.

B. Performance Measurements for FOC Timeliness are not Sufficiently Demanding

The performance measurement for FOC timeliness measures the amount of time BellSouth takes to return Firm Order Confirmations (a communication of the due date) to CLECs. The Georgia standard is that CLECs must return FOCs for partially mechanized orders within 10 business hours 85 percent of the time. As Birch discussed in its comments, this standard is significantly less demanding than that of Texas where SBC must return FOCs for partially mechanized orders within five business hours 95% of the time. Sauder Decl., ¶ 36. BellSouth should be required to meet the more stringent Texas standard.

BellSouth's *November 2, 2001 OSS/Manual Handling Ex Parte*, demonstrates that it is meeting the Georgia benchmark for FOC timeliness with respect to partially-mechanized orders and is even meeting the Texas standard for FOC timeliness. This, however, does not imply that the Commission can ignore the deficiencies in the Georgia standards. Once BellSouth's Application is granted BellSouth can reduce the level of its performance to the required minimum and escape penalty. In fact, BellSouth has an incentive to do so. Maintaining a high level of performance is not free. BellSouth must employ additional employees to ensure that large numbers of FOCs are sent to CLECs in a timely manner. Once its Application is granted BellSouth can reduce the amount of resources devoted to obtain the current level of FOC performance and just devote sufficient resources to meet the lower Georgia standard. If the Commission approved BellSouth's application, it would set the dangerous precedent that a performance measurement standard could demand significantly less of a LEC than what it was capable even though a higher standard is important to a CLEC's ability to compete.

The less demanding Georgia standard for FOC timeliness also has the perverse effect of not encouraging mechanization to the extent of the higher Texas standard. SWBT must devote significant resources to its manual processes to meet the Texas standard of 95% within five business hours for partially mechanized orders or SWBT can mechanize the ordering process to avoid these costs. On the other hand, for BellSouth to meet the Georgia standard of 85% within 10 business hours for partially mechanized orders requires fewer resources. As a result, partial mechanization is comparatively more attractive to an RBOC under the Georgia standard than the Texas standard.

The importance of the FOC timeliness performance measurement standard is heightened by the fact that the standard for flow through is only 85%. BellSouth's failure to flow through significant numbers of orders means that many of its FOCs will be processed manually. Unfortunately, the Georgia standard for FOC timeliness is not as stringent as those in other states where applications have been approved. This, despite the fact that if anything the performance standard should be more stringent in Georgia than in Texas since there is more manual intervention in Georgia.

C. BellSouth's Performance Regarding the Average Competition Interval is Overstated and the Performance Measurement Standard for the Average Completion Interval is Not Sufficiently Demanding.

The average completion interval ("OCI") measures the average time it takes BellSouth to complete an order. As discussed in Birch's comments, the start time for this interval is the CLEC's receipt of the FOC from BellSouth and the end time is when BellSouth completes the order. This start time significantly reduces the value of the standard. It would be far more effective if the start time was the time stamp for when the LSR was submitted as it is in other states where Section 271 authority has been granted. Sauder Decl., ¶ 42. This would ensure that the average completion interval captured the time it takes to issue a FOC and thus captured any inefficiencies caused by manual processing.[49]

If the average completion interval is defined properly, BellSouth's performance under the standard would drop. As in the case of the performance measurement for FOC timeliness, BellSouth's high rate of partial mechanization makes it particularly important that the measurement be defined properly.

Significantly, BellSouth's reported results for the average completion interval are overstated even if the measurement is defined in the manner used by BellSouth. Birch's initial comments demonstrated that in calculating its average completion interval, BellSouth included orders made to correct the errors that BellSouth made in processing the initial orders. Sauder Decl., ¶ 28. Absent this mistake BellSouth's average completion interval would be higher.[50]

VIII. THE COMMISSION SHOULD NOT APPROVE BELLSOUTH'S SECTION 271 APPLICATION UNTIL BELLSOUTH'S BEHAVIOR CHANGES IN A NUMBER OF IMPORTANT RESPECTS

The problem areas in BellSouth's performance and in the Application are well documented by Birch, other CLECs, and the DOJ. Even BellSouth itself readily acknowledges certain failure areas, but arrogantly passes them off as not being, in Bell South's view, customer-impacting.

Despite BellSouth's downplay of these shortcomings, DOJ determined them to be sufficiently serious to "preclude the Department from supporting this joint application."[51] While DOJ does not foreclose the possibility that its concerns may be adequately addressed prior to the

[49] *See also* DOJ Evaluation at 37 n. 131.

[50] Attachments 5 and 6 outline BellSouth correction service orders that are also included for purposes of determining performance results.

[51] DOJ Evaluation at 38.

close of the Commission's review of the Application, the Commission should deny BellSouth's Application based on the current record. However, regardless of what the Commission ultimately decides, Birch recommends a number of meaningful short term changes that if administered properly, could give near term relief to CLECs from the current deteriorated conditions in the most troubling problem areas.

A successful resolution of these problems clearly cannot be achieved by BellSouth providing more and better rhetoric, additional contradicting statistics, promises to do better, or claims that proceedings or task forces are in place that will successfully solve these problems. BellSouth's track record is nothing shy of embarrassing in this regard. Since Birch's entry into the BellSouth region in early 2001, BellSouth has been long on pleasantries and pledges to try harder and do better for its wholesale CLEC customers and very short on achieving any meaningful, tangible improvements in the areas that are most critical to Birch.[52]

The challenge before the Commission is to require tangible, specific, enforceable modifications that yield results that are measurable at a detailed level and sustainable over time. Moreover, any such required modification must have a carrot and a stick; be self-triggering if missed; and be bolstered by a built-in incentive to produce.

The best and perhaps only way to be certain that BellSouth will do more than just glad-hand is to have in place a performance measurement plan that effectively identifies and measures where BellSouth is performing poorly and provides BellSouth with the correct incentives to improve. The current performance measurement plan in Georgia is deficient in

[52] For example, a Birch Telecommunications Action Plan that was executed by Birch and BellSouth in early July 2001 – after a five month review of Birch LSRs – aimed exclusively at improving order flow through by 5 percentage points each month, with a target level of 95% flow-through by December 2001. The reality is that Birch's flow-through percentage has made no improvement whatsoever during the period covered by this Action Plan, and currently sits at a stagnant 60%.

several key areas.[53] Absent changes to the performance measurement plan, critical changes are required regarding how BellSouth does business with its CLEC customer/competitors. Birch discusses below some of the areas where improvements are most needed. Specifically, to require BellSouth to take steps to rectify its service order entry quality problem, and to give CLECs a greater ability to manage that quality

A. Require that BellSouth Solve its Service Order Entry Quality Problem Through Manual Quality Control Resources

The Birch specific flow through rate of 60% (excluding CLEC errors and orders not designed to flow through) is troublesome[54] in and of itself, but is further aggravated by the high rate (28.17%) of BellSouth-introduced errors that occurs on the 40% of orders that require manual intervention by BellSouth. While the ultimate solution must be improvements to BellSouth's OSS that eliminate manual processing, in the near-term reducing BellSouth-introduced errors on the service order is nothing more than a matter of requiring better care and oversight on the part of BellSouth. Birch recommends that BellSouth be required to implement provisioning teams that are dedicated to particular CLECs, with individuals on those teams whose *only* function is to check that the service orders are 100% consistent with the CLEC LSR. Certainly, this is nothing more than "throwing people at the problem," but it is, after all, human error that is at the root of the manual intervention that BellSouth has allowed to exist and proliferate. If BellSouth is unable to produce an immediate systematic solution to the problem and manual intervention in its current form continues, then quality control must also be reduced

[53] For example, in the current Georgia Self Effectuating Enforcement Mechanism, the current service order accuracy measurement does not carry any penalties or remedies if missed by BellSouth. This loophole must be closed through the imposition of a meaningful penalty.

[54] This is particularly the case when no momentum to improve exists, and the trajectory of the month-over-month results curve remains "flat-lined."

to its most rudimentary form – people checking people.[55] Birch would further recommend that these dedicated teams with quality control oversight be required to be in place until BellSouth can replace them with a systematic solution that permanently eliminates the quality problem.[56]

Birch experienced the same difficulty with the errors caused by manual processing in its early days as SWBT's wholesale customer. With "encouragement" from the Texas PUC, SWBT dedicated a particular group of individuals to processing *only* Birch orders, and also dedicated quality control resources[57] to ensure a quality product. The results were dramatic: SWBT was successful in reducing its service order entry error rate significantly and swiftly.

B. The Commission Should Require BellSouth to Immediately Implement the Change Request (CR0040) pending before the Change Control Group to Give CLECs Real-Time Visibility of Order Status

Birch takes its quality control role extremely seriously, as is evidenced by its incurrence of a premium that approaches 50% over the base cost of its BellSouth provisioning operation to do just that. As successful as Birch is at catching and correcting BellSouth's errors to insulate its customers from BellSouth's poor quality, its ability to do this is severely hampered by the untimely and inaccurate nature of BellSouth's CLEC Service Order Tracking System ("CSOTS"). CSOTS is the system that Birch's IPMs access to evaluate service order accuracy and status. At this time, Birch experiences the following problems with CSOTS:

[55] Birch has already pointed out that it has had to hire five Quality Control employees which add nearly 50% to the cost of the Birch provisioning staff. These costs must be transferred *directly* to the BellSouth payroll through the commitment of BellSouth resources to perform quality control.

[56] Ideally, BellSouth must reduce the incidence of errors inherent in manual handling through mechanization. Greater mechanization leads to an improvement in the frequency of flow through, which is the only sustainable way to combat manual errors, i.e., eliminate the need for human hands to touch a CLEC order.

[57] Southwestern Bell staffed quality control resources at a 1:4 ratio, *i.e.*, one quality control person for every four provisioning representatives.

- BellSouth's CSOTS specifications call for the system to update only once every 24 hours.
- CSOTS frequently does not even update within the 24 hour time period specified by BellSouth.
- Service orders in CSOTS may not be identical to the service order viewed by the LCSC.
- The service orders in CSOTS do not reflect corrections made to the service order.

These inadequacies are frustrating and time-consuming, and hinder Birch from doing the backstop work that BellSouth's error-ridden manual processing necessitates. If service orders were viewable in CSOTS real-time, Birch could (on the same business day) reconcile BellSouth-entered service orders to Birch orders; could reconcile BellSouth-entered corrections to Birch corrections; and could confirm that supplemental orders were worked, all in a more timely manner. The provisioning intervals on orders that require manual intervention by BellSouth and the efficiency of Birch's provisioning department would be greatly improved if Birch did not have to make telephone calls to the LCSC to have the LCSC look at a service order, and check the accuracy of the order because Birch is unable to do so.

Controlling the quality of BellSouth's internal service orders is BellSouth's responsibility and not Birch's.[58] Having said that, Birch is ultimately accountable to its customers and will not let this quality assurance go undone. Birch is merely requesting that if BellSouth refuses to address its quality shortcomings, the Commission at least require BellSouth to allow real-time system updates so Birch has the best opportunity to do the job right.

[58] Birch pays BellSouth to provision its orders. The cost-based price is very much a function of BellSouth's efficiency or lack thereof.

C. Require the BellSouth LCSC to Engage in Direct and Real-time Contact with CLECs, and to Take End-to-End Accountability for the Successful and Accurate Provisioning of a CLEC Order

It has been Birch's experience that BellSouth has resisted allowing Birch to directly coordinate operational issue resolution through BellSouth's front-line provisioning organization, the LCSC, to evaluate and solve problems and bring about process modifications within the centers. Rather, Birch has been directed to address these issues indirectly through Birch's Account Team and other BellSouth personnel who are removed from what occurs daily on the floor of the LCSC. The BellSouth Account Team and/or the Customer Service Manager has acted in a "broker" capacity, serving as the interface between Birch and the source of the BellSouth provisioning problems – the LCSC. Despite some good intentions on behalf of the BellSouth Account Team, once again there is an abundance of rhetoric and activity but little to show for it. Also, the Account Team readily admits that it cannot effectively address pervasive or systemic matters that involve the LCSC and has represented that its best contribution to Birch's success is "saving the day" on a customer by customer basis. This is a valuable role, but very much limited compared to what Birch needs to achieve the higher leverage successes with BellSouth.

1. Assign Specific Front Line and Chain of Command LCSC Resources to Particular CLECs

Birch must gain direct and routine access to individuals in the BellSouth LCSC that have both a familiarity with Birch and the type of orders it submits, and the decision-making authority to mandate procedural or systematic changes that improve the service it provides to Birch. Specifically, Birch requests that BellSouth be required to assign Service Representative, Supervisor, Manager, and Director level resources in the LCSC to Birch (or any CLEC, for that matter), so that a sustained level of familiarity and accountability can be fostered between

Birch's provisioning personnel and their counterparts at the BellSouth LCSC.[59] Birch further requests that certain specific BellSouth LCSC personnel be required to participate in weekly discussions, where progress and status is reported and documented.

2. Give CLECs a Significant Role in the Oversight and Enforcement of BellSouth's Behavior as a CLEC Vendor

With respect to oversight and enforcement of BellSouth's behavior in this context, Birch requests that it be allowed to place its own employees on site at the BellSouth LCSC from time to time.[60] Certainly what Birch is requesting here is non-traditional in nature, but given the situation Birch faces, it will indeed be an effective response to combat the lack of substantive progress by BellSouth. Birch has repeatedly pointed out to BellSouth the serious flaws in its day-to-day performance as a vendor. Nevertheless, BellSouth has not taken steps to address these flaws in any sort of comprehensive fashion. Birch has done the same with the Georgia PSC – again to no avail.

Despite a growing stack of very troubling evidence regarding BellSouth's lack of readiness for interLATA market entry, BellSouth remains strident in its stance that it is "doing enough" and that the application in its current form should be approved by this Commission. Birch therefore asks this Commission to place Birch and other CLECs directly in the role of oversight and enforcement at the BellSouth employee level. This expanded degree of accountability is the only way Birch can satisfy itself that it will not once again be "glad-handed" by BellSouth as it promises but fails to deliver the results. Moreover, providing CLECs with

[59] Birch understands that as persons move up the LCSC hierarchy, Directors and even Managers may be responsible for multiple CLECs. The point is that particular employees at every level assume some ownership role for their particular CLEC(s).

[60] Birch would also request that it be given the opportunity to offer feedback on the chain-of command that supports the Birch activities at the LCSC, with this input factoring into performance appraisals and hence the level of base and incentive compensation payouts.

some oversight over BellSouth's processing of these orders will help to prevent BellSouth from backsliding when it is ultimately granted Section 271 authority.

3. Eliminate the Split between BellSouth's Birmingham and Jacksonville Provisioning Centers, and Require Ownership of a CLECs Service by One Center or the Other that CLECs Receive 100% of Their Service From One Center or the Other

Currently, Birch is required to interface at both the Birmingham LCSC and the Jacksonville Call Center if it uncovers problems on particular orders. Often, the two centers end up pointing fingers at each other, claiming the other center is the cause of, or has responsibility for correcting, the problem. Making matters worse, service representatives in the center are regularly misinformed of the latest manual workaround that have been implemented because of system defects, in the other centers. Similarly, service representatives in one center are not familiar with the provisioning business rules and guidelines of the other. Perhaps this is trivial on its surface, but placing Birch in the role of referee, further complicates a situation that is already extremely complex. If BellSouth is required to designate specific resources that are dedicated to Birch (or any particular CLEC) and those resources are all housed in the same general area of a particular center, then the problem of bounding between centers to find relief is alleviated. Ultimately, Birch requests an operations single point of contact, provisioning location and team that will take ownership of, and be consistently familiar with Birch's orders, understand the provisioning rules and guidelines, perform corrections with ease and accuracy, and have the competence to answer questions related to the flow and status of Birch orders.[61] This will enhance the proficiency of the current provisioning process.

[61] Birch recognizes the value of receiving support from a second provisioning center, and encourages BellSouth to workload manage in this way. However, this management must be done in the context of strict ownership and accountability by one particular team in one particular center.

D. Require that the Flow Through Task Force Demonstrate Tangible Success in Addressing CLEC Priorities, and Establish a Meaningful Oversight and Enforcement Role for the Commission

The Flow Through Task Force[62] is a perfect example of BellSouth *appearing to* address CLEC problems (improved flow through in this instance) but with very little results to show for this activity. Birch is active on this Task Force and concludes that with rare exception, CLEC requests are identified and prioritized but not acted upon by BellSouth. Attachment 12 shows the notes from the Task Force's October 17, 2001 conference call and contains the most recently published list of prioritized issues that are pending mechanization. In the "Planned Manual Fallout" matrix, priorities 2 through 10 have not been committed to a BellSouth Release.[63] Important items that would increase mechanization (and hence improve flow through) such as Partial Migrations (priority #2, initiated in 3Q00), Multi-Line Hunting (priority #3, initiated in 2Q99), Denials/Restorals (priority #5, initiated in 1Q99), Complex DID (priority #6, initiated in 1Q99), Directory Listings – Intentions and Captions (priority #7, no initiation date), all have "no status" and no inclusion by BellSouth in an upcoming release.[64] Bottom line, since April, 2001 the BellSouth managed Flow Through Task Force has prioritized 21 items with no items implemented, seven items scheduled for a 2002 release and remaining 13 items having no

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[62] In January 2001, BellSouth was ordered by the Georgia Public Science Commission (Docket 7892-U) to implement an Improvement Task Force. The Task Force was designated as a sub-committee of the BellSouth Change Control Process. The goal of the Task Force is to improve flow-through performance based on the input and prioritization of BellSouth and CLECs. Specifically, this Task Force jointly prepares an implementation report that includes implementation target dates to eliminate the high incidents of BellSouth Caused Failures and the designed manual fallout for electronically submitted LSRs.

[63] Priority #1 (RPON'd LSRs) is targeted for inclusion in a May 2002 Release, but was initiated in and has been pending since 3Q2000.

[64] The products under consideration by the Flow Through Task Force compete with other BellSouth projects – including retail – for programming resources. Absent some tangible incentive, BellSouth will (as it appears) *always* direct the resources that yield the greatest corporate benefit. If current levels of flow through are "good enough" and not triggering serious punitive consequences for BellSouth, then there is no corporate benefit associated with increasing the mechanized ordering of CLEC products.

associated status or committed release date. With absolutely no flow through enhancements to speak of, this task force has not achieved the expedited relief that it was charged to implement.

It would be ideal if BellSouth were subject to a set of meaningful measurement flow through and enforcement mechanisms in the Performance Measurement Plan. However, the current enforcement plan does not incent BellSouth to increase flow through[65] and in fact rewards manual handling with very relaxed partially mechanized standards. In the absence of an effective enforcement plan, Birch recommends that the Commission require BellSouth to demonstrate tangible progress through monthly reports to or meetings with the Commission. In this way, the Commission can act in an enforcement capacity and evaluate the progress of flow through and determine whether or not corrective action is warranted.

E. Require that the BellSouth Change Control Process Demonstrate Tangible Success in Addressing CLEC Priorities and Establish a Meaningful Oversight and Enforcement Role for the Commission

Not unlike the Flow Through Task Force, the BellSouth Change Control process is more form than substance. The Commission has been clear in stressing the importance it places on a well-functioning change control process in its prior review of Section 271 applications.[66] Birch is an active and vocal participant in the BellSouth Change Control process, and has already (along with other commenters) offered evidence in this proceeding regarding the unproductive nature of this forum, and the impact that this has had on Birch. The minutes from the October 24, 2001 Change Control Process are included as Attachment 13. Despite the Commission's

[65] The current SEEM plan only provides for remedy payments of $20 per occurrence for the first month of non-compliance and max out $90 per occurrence for the sixth consecutive month of non-compliance. BellSouth's current UNE performance, which is well below even the state's current low standard of 85%, has not significantly improved since the SEEM plan was put in place for Georgia is evidence that BellSouth is willing to pay remedies, opposed to the ultimate goal of improving flow through.

[66] *Texas Order*, ¶ 107.

clearly stated importance, and despite Birch and other CLECs' best efforts to make this forum meaningful and productive, a review of the facts shows that the forum is ineffective.

A fruitful Change Control Process is of "mission critical" importance to CLECs in that it is the definitive venue to which CLECs collectively bring their requests for system enhancements to be prioritized and considered by BellSouth. Suffice it to say that without a functional and productive Change Control process, CLECs have no hope of making meaningful progress in system enhancements.

Since June 2000, CLECs have prioritized change requests that would provide significant system enhancements and resolved system defects, which includes CR0040. Of 65 change requests, only 15 have been scheduled and implemented in the 2000 or 2001 releases. The most recent prioritization of pending change requests related to system or software changes occurred in April 2001. Included in this prioritization was a ranking of the requests pertaining to the BellSouth pre-ordering and ordering interfaces from 1 to 36. Birch finds it very disappointing that *none* of the 36 requests have been slotted into a 2001 or 2002 release at this time. It is even more telling that not even the change request CR0040 that was ranked number 1 by CLECs has a release date even though the request was submitted on May 11, 2000.[67] In fact,

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[67] Also telling is the nature of this request, *i.e.*, since mid-2000 CLECs have been seeking real-time visibility into order status as evidenced by the description, purpose, and benefit received from this request. The description reads:

> This request is to add functionality, similar to that provided by CSOTS, to track PONS/orders from the time the order hits BellSouth's gateway until the order is completed. This order tracking tool should be available electronically and should be centralized into a single source for CLECs to access. This tool will allow CLECs to track orders from the point of origination to order completion, minimizing the need for phone calls and inquiries between workcenters. In today's environment, reps call to either gain clarification on an order, gain status of an order or to find out why a response hasn't been received. An order tracking system would allow CLECs to follow an order within BellSouth from the time it hits

(footnote continued on next page)

it appears from the BellSouth's website documentation on this request that BellSouth's last formal update on this request was on August 7, 2000, when it formally responded to the request Attachment 14. So despite the number 1 ranking, BellSouth has made no progress on the request. There is little CLECs can do within the constructs of the Change Control Process to rectify this critical shortcoming.

Because BellSouth has amply demonstrated that it can not be relied upon to act unchecked in an oversight capacity, Birch requests that the Commission act in a direct oversight capacity. In this capacity, BellSouth should be required to file monthly reports on the status of pending change requests, including justification as to why requests have not been slotted into a future release. This report should also contain detail on all projects that *are* contained in scheduled releases,[68] and should be posted on the BellSouth CLEC website. This way, the Commission can ensure itself that BellSouth is choosing between CLEC requests and its own initiatives in a fair and unbiased manner. With respect to near term and tangible initiatives, Birch requests that the Commission direct BellSouth to slot at least the top 10 ranked requests from this April 2001 prioritization[69] into the 2002 release schedule as a condition of Section 271 approval.

Birch requests that the Commission also evaluate whether or not enforcement action is warranted regarding BellSouth's progress in implementing the highest priority requests, and with respect to being more forthright in the Change Control process generally.

> BellSouth's gateway until the order is completed with minimal disruption to the workcenters….

See Attachment 14.

[68] A description and justification should be provided on all projects internal to BellSouth.

[69] Birch understands that there will be an updated prioritization in the very near future that will address change requests that have been submitted since the April 2001 prioritization. It may be appropriate to order BellSouth to incorporate the highest priorities from that updated prioritization if it is made available on a timely basis.

Birch recognizes that the tactics that it has requested above may appear to be overly heavy-handed. However, the facts demonstrate that BellSouth simply can not operate unchecked in an oversight capacity and that close scrutiny of BellSouth is therefore warranted.

IX. CONCLUSION

Birch is forced to expend substantial resources to prevent customer-affecting problems. Birch chooses to remain in business and intercept such problems, rather than allocate resources to file and pursue complaints with regulators. The harsh reality is that without implementing the additional manual processes on Birch's side of the provisioning equation, Birch would likely not be among the remaining 75 CLECs left in this country. Birch is forced to react to the hand it is dealt by BellSouth. The Commission should not approve the Application until Birch's hand is improved.

Birch should not have to contend with low levels of flow through, which in turn lead to BellSouth's excessive reliance on manual handling, which in turn leads to BellSouth-caused service order inaccuracies that render Birch needlessly inefficient and unable to provision its service at or near parity with BellSouth's retail, without extraordinary measures on Birch's part. BellSouth's OSS do not provide Birch a meaningful opportunity to compete.

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